



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Lambrecht & Sons Inc.--Reconsideration

**File:** B-241092.2

**Date:** February 7, 1991

Kenneth Lambrecht for the protester.  
Catherine M. Evans and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Request for reconsideration of decision dismissing as untimely protest of agency's decision to request best and final offers from all offerors is denied where protest was not filed at General Accounting Office prior to the closing date for receipt of initial proposals.

### DECISION

Lambrecht & Sons Inc. requests reconsideration of our decision, Lambrecht & Sons Inc., B-241092, Sept. 24, 1990, 90-2 CPD ¶ 253, in which we dismissed as untimely filed its protest of the Department of the Army's decision to request best and final offers (BAFO) under request for proposals (RFP) No. DABT19-90-R-0017, for painting services.

We deny the request for reconsideration.


From our reading of Lambrecht's protest, it appeared that the Army had selected an awardee under the protested solicitation. Since it thus appeared that Lambrecht had not filed its protest until after the closing date for receipt of BAFOs, we held that the protest was untimely. Protests challenging alleged improprieties incorporated in a solicitation after issuance must be filed prior to the next closing date for receipt of revised proposals. 4 C.F.R. § 21.2(a)(1) (1990). In its request for reconsideration, Lambrecht asserts that the due date for BAFOs in fact was September 14, and that its protest, filed on September 11, 1990, therefore was timely.

This new information does not change our decision. While, based on this information, we agree that Lambrecht's protest was not untimely because it was filed after the BAFO deadline, Lambrecht ignores in its request the alternative bases set forth in our decision for dismissing its protest. In this

050537/14311

regard, we held that because negotiated procurements contemplate the conduct of discussions and the submission of revised offers, 10 U.S.C. § 2305(b)(4)(B) (1988); Federal Acquisition Regulation §§ 15.610 and 15.611, Lambrecht's protest of the agency's decision to request BAFOs amounted to a protest of the decision to conduct the procurement using negotiated procedures instead of sealed bidding. Noting that this alleged impropriety was apparent on the face of the solicitation, we concluded that Lambrecht should have filed its protest prior to the time set for receipt of initial proposals, and that its protest submitted only prior to the BAFO closing date therefore was untimely. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1); Fiber-Lam, Inc., B-237716.2, Apr. 3, 1990, 90-1 CPD ¶ 351. Lambrecht also ignores our further statement that, timeliness aside, there simply is nothing improper in an agency's requesting BAFOs in a negotiated procurement. See Sechan Elecs., Inc., B-233943, Mar. 31, 1989, 89-1 CPD ¶ 337.

As Lambrecht does not allege any errors of fact or law or present information not previously considered that warrants reversal or modification of our decision, the request for reconsideration is denied. 4 C.F.R. § 21.12(a); R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.

  
Ronald Berger  
Associate General Counsel